

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
Digital Television Distributed Transmission	)	
System Technologies	)	MB Docket No. 05-312
	)	

To: The Commission

**COMMENTS OF TVPLUS LLC**

TVPlus LLC (“TVPlus”) hereby submits these comments in response to the Clarification Order and Notice of Proposed Rulemaking (the “NPRM”) in the above-captioned proceeding, which was issued by the Federal Communications Commission (the “Commission” or the “FCC”) on November 4, 2005. The NPRM seeks comment on a variety of issues relating to the deployment of DTS, including the FCC’s proposed rules for future DTS operations and how DTS operation will serve the public interest and advance the overall DTV transition.

**I. INTRODUCTION**

TVPlus is a start-up company that has entered into agreements to acquire television stations in the Los Angeles, California DMA. Specifically, TVPlus has entered into agreements looking toward its acquisition of Sunbelt Television, Inc., the licensee of KHIZ(TV), Barstow, California. TVPlus also is the parent of TV 45 LLC, which has been granted FCC approval to acquire KLAU-LP, Redlands, California.

Arthur Liu owns the 80% controlling interest in TVPlus with agreements to acquire the remaining 20% interests and wholly own the company. Mr. Liu and Yvonne

Liu, his spouse, own and operate over 40 radio stations through Multicultural Radio Broadcasting, Inc. and other entities (collectively “MRBI”). MRBI epitomizes both the difficulties and success of minority small-business ownership in broadcasting. To obtain their first station, the Lius filed an application in a large multi-party comparative hearing in which they prevailed after many years and received their first FCC construction permit. Through gradual growth built largely upon providing needed service to underserved local minority communities, they achieved MRBI’s present ownership level. Because radio was a mature industry in which the most powerful and valuable stations were either already taken or available only at prices beyond their means, the Lius built MRBI by acquiring and developing what was available. All but one of MRBI’s stations are in the AM band. Many are in the outlying fringes of major markets. In short, the Lius created a successful minority-owned broadcast business by developing the service of stations that were less than the best facilities located at the centers of their markets.

TVPlus represents the beginning of the Lius attempt to replicate in television MRBI’s successful establishment of minority small business ownership in radio. The Commission’s action in this proceeding will be critical to whether minorities and small businesses will have a place in the digital television industry. As the Commission is well aware, even more than in radio, the prime television technical facilities were allocated at times when opportunities for small business and minority-owned broadcasters to participate were virtually non-existent. Still today such entities often lack the financial resources and opportunities to acquire television broadcast properties in large metropolitan areas. Instead, these broadcasters all too frequently are relegated to operating stations in smaller, outlying and less desirable communities that often are

unable to serve these more populated metropolitan areas due to signal deficiencies and intervening terrain obstructions. KHIZ(TV) and Barstow exemplify just such a station and community, geographically at the outskirts of the Los Angeles DMA yet severely terrain shielded toward the heart of that market. As a small, minority-owned broadcaster, TVPlus enthusiastically supports the adoption of rules to authorize the use of DTS technology and DTV boosters as means to level the playing field and to permit small business and minority-owned broadcasters to compete effectively in the markets in which they are located.

**II. DTS TECHNOLOGY WILL GENERATE SUBSTANTIAL PUBLIC INTEREST BENEFITS FOR CONSUMERS AND WILL FACILITATE THE RAPID DEPLOYMENT OF DTV SERVICE.**

As the comments submitted in response to the Commission's *Second DTV Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television* (18 FCC Rcd 1279 (2003)) strongly indicated, approving the use of DTS technology will generate substantial public interest benefits. Most significantly, DTS offers small business and minority-owned broadcasters the opportunity to overcome one of the many obstacles they face in competing effectively in the markets they serve. Through the strategic placement of the individual transmitters that make up a DTS network, DTS can overcome terrain and other obstructions and thereby facilitate over-the-air digital television service to populated areas with a station's service area that cannot be served by a traditional, single tower station.

DTS offers other significant public interest benefits as well. A station utilizing DTS can provide a stronger, more uniform broadcast signal throughout a DTV station's service area, including those locations at the periphery of the station's service area. In

addition, the ability to deliver the DTV signal through multiple transmitters makes possible improved in-home reception of DTV signals from set-top antennas because stronger signal levels will be available from multiple directions. Improving in-home reception of DTV signals for small business and minority-owned broadcasters is critical because it would facilitate the delivery of their often unique and tailored programming to the approximately 15% of U.S. households that do not subscribe to either cable or DBS service, as well as those households that do subscribe to one of these services but have one or more television receivers that still rely on over-the-air reception.

DTS also may accelerate and facilitate the DTV transition for small business and minority-owned broadcasters. DTS can serve as a less costly alternative to a large single tower facility as a means to build-out a maximized DTV service area. In many cases, small business and minority-owned broadcasters cannot afford to purchase the costly high powered transmitter and other equipment necessary to build-out a maximized single tower facility, and do not have the resources to construct, operate, maintain or rent a tall transmission tower in a central location. However, a DTS system offers the possibility of a less costly alternative because it will use lower powered transmitters and antennas that can be located on smaller, existing towers, with correspondingly shorter, and less expensive, transmission lines. The reduced capital costs for equipment, combined with lower tower and electrical costs, will advance the DTV transition by allowing more stations, including those owned by small business and minority-owned broadcasters, to build out or expand their DTV service areas.

DTS may accelerate the DTV transition in other ways as well. Stations whose single tower proposals have been blocked or delayed as a result of local restrictions on

tower height and placement may be able to roll out their digital facilities more expeditiously by constructing shorter towers, or using shorter, existing towers that currently support other communications services, such as cellular and PCS.

DTS also will permit the more efficient use of the broadcast spectrum. By deploying a network of transmitters, no single transmitter in a DTS system will typically serve a very large area. Therefore, each transmitter within a station's DTS network will generally operate at a power level that is significantly lower than required for a maximized single transmitter station. Despite these lower operating powers, a station utilizing DTS can achieve equal or improved service levels and improved in-home reception while at the same time reducing overall interference to nearby stations.

### **III. THE FCC SHOULD AFFORD DTS FACILITIES PRIMARY REGULATORY STATUS.**

TVPlus fully supports the Commission's conclusion that the multiple transmitters used in DTS should be afforded primary regulatory status. As the Commission has already recognized, granting DTS primary status is necessary to protect the increased and expanded service benefits that DTS can provide. Indeed, there would be little or no incentive to deploy a DTS network if by doing so a station would lose interference protection to any portion of its service area. Moreover, treating DTS transmitters on a secondary basis would have the unwanted effect of discouraging efforts to enhance service to the public. For this reason, TVPlus also supports the FCC's proposal to license DTS transmitters under Part 73.

**IV. THE FCC SHOULD NOT HAMSTRING THE POTENTIAL BENEFITS OF DTS BY LIMITING THE DTS SERVICE AREA TO THE EQUIVALENT OF THE AREA A SINGLE TRANSMITTER STATION COULD SERVE.**

The Commission has tentatively proposed to limit the area that a station can serve from its DTS operation to the equivalent of the area that it could serve using a single transmitter. TVPlus respectfully submits that this proposal imposes unnecessary and outdated limitations on DTV service that are based on technological limitations associated with analog television that are inapplicable to DTS. Specifically, multiple analog transmitters cannot operate on the same channel because the combined signals would generate fatal, self-inflicted interference. This technological limitation effectively constrains analog broadcasters to providing service only to the area served by the single transmitter. However, DTV receivers are not subject to this technological limitation because they have built-in adaptive equalizers that will select the strongest received signal from the multiple DTS transmitters operating on the same frequency. The Commission should not hamstring the potential benefits of DTS by unnecessarily constraining digital television service on the basis of the limitations of analog technology.

TVPlus urges the Commission to allow stations utilizing DTS to provide service throughout their designated market area (“DMA”) at the end of the DTV transition. As noted above, small business and minority-owned broadcasters generally operate stations in smaller, less desirable outlying communities that often are unable to serve the more densely populated portions of their markets due to distance or terrain obstructions. Although these stations clearly are part of their FCC-defined market, and must compete with those stations that are more centrally located, they are unable to do so effectively due to the inherent geographic limitations of their allotment. Permitting stations that

utilize DTS to provide service within their entire FCC-defined market will level the competitive playing field.

Permitting service expansion in this fashion will generate other public interest benefits as well. As noted above, approximately 15% of all U.S. households do not subscribe to an MVPD service. Allowing stations using DTS to provide service within their assigned DMA will advance the public interest by providing these viewers with increased access to over-air-broadcast service and a wider variety of programming options, including the unique, tailored programming service delivered by small business and minority-owned broadcasters. Moreover, expanding the service area for stations using DTS would enable broadcasters to provide to consumers an alternative source of multichannel video programming.

TVPlus respectfully disagrees with the Commission's rationale for tentatively rejecting the DMA-wide service expansion proposal for DTS. First, expansion of the DTS service area in this fashion is not inconsistent with the Commission's traditional focus on localism. Stations deploying DTS are and will remain subject to the existing, long-standing requirement to serve the needs and interests of their community of license, and that requirement can continue to be enforced against stations using DTS to serve their DMA during the license renewal process. Moreover, the Commission ignores the fact that the programming delivered by most television stations already is carried by cable and/or DBS in areas well outside their communities of license. The instant proposal merely allows broadcast television to serve as an effective, subscription-free video distribution outlet for consumers and to compete on a more level playing field with cable and DBS.

The Commission also speculates that an expansion of the service area for stations deploying DTS would preclude new stations from entering the market. This concern is misplaced. The impact of service expansion using DTS will be severely limited due to the fact that it will occur on the same channel that the DTS station already occupies. As a consequence, in most instances, new entrants would not be permitted to commence operations on those channels due to the potential for co-channel interference.

With respect to the Commission's legitimate desire to prevent "cherry-picking," TVPlus believes that appropriate signal strength and coverage limits can be adopted to prevent a station using DTS to abandon viewers already receiving service.

TVPlus believes that the technological characteristics of DTS combined with properly tailored service and interference restrictions would permit the Commission to afford DTS service primary regulatory status within a station's DMA. However, TVPlus recognizes that it may not be appropriate to undertake such a sweeping change in broadcast television regulatory scheme at this time. Nevertheless, TVPlus believes that the public interest benefits of allowing stations that utilize DTS to provide service within their entire DMA are sufficiently compelling to warrant, at a minimum, affording such service secondary regulatory status.

**V. THE COMMISSION SHOULD AUTHORIZE DTV BOOSTERS AND AFFORD DTV BOOSTERS PRIMARY REGULATORY STATUS.**

TVPlus urges the Commission to authorize full-power DTV stations to use on-channel digital boosters as a permissible alternative to a DTS system as a means to provide fill-in service to areas within their protected service area that cannot be reached directly by their signals due to intervening terrain. Although it is unclear at this time under what circumstances the use of a DTV booster would be preferable to a DTS



network, TVP believes that broadcasters should be given additional flexibility to maximize service to their viewers. Moreover, DTV boosters may provide a less costly alternative for small business and minority-owned broadcasters to overcome terrain shielding situations than a more complex, and therefore more expensive, DTS network. The Commission should not foreclose that opportunity.

Authorizing the use of DTV boosters under the same processing rules as analog boosters would expedite the delivery of DTV service. As the Commission points out, applications for new DTV translators may only be filed during a limited filing window, which effectively limits their availability and utility. The Commission should permit DTV booster applications to be filed at any time on a first-come, first-serve basis.

Finally, TVPlus submits that DTV boosters should be afforded primary regulatory status. The Commission expressly contemplates authorizing a primary DTS system to operate with one main transmitter and one additional transmitter (NPRM at ¶ 28). However, there is little distinction between a DTS Network with only one additional transmitter and a single-tower DTV station operating with an authorized on-channel DTV booster. Both systems will operate on a single channel and both the single DTS transmitter and the DTV booster will be located and may provide service within the station's currently authorized service area. Any potential interference caused by the DTV booster would be subsumed by the interference potential for the main DTV station. Affording DTV boosters only secondary regulatory status under these circumstances serves no useful purpose and would unfairly disadvantage DTV booster operations.

## **CONCLUSION**

For the reasons set forth herein, TVPlus respectfully urges the Commission to expeditiously adopt rules authorizing the use of DTS technology, permit stations using DTS to provide service within their entire DMA, authorize the use DTV boosters as an alternative to DTS and afford DTV boosters primary regulatory status.

Respectfully submitted,

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